Panel B

Secti. II-27—80,000—4-1-52.

Development (1953) Department.

Ms SERIES.

G.O. NO. 2763

Date 13-6-53

FOR MYSORE STATE

[Despatch Abstract.]

Labour — Disputes — Dispute between the workers and the management of Messrs. Srijinkar Tele Works Ltd, Manjakne Reference to the Ind. Tribunal, Coimbatore, for adjudication — Ordered

Mangalore Tile Workers' Union.

(Regd. No. 1406)

ಮಂಗಳೂರು ಹಂಚಿನ ಕಾರ್ಮಿಕರ ಸಂಘ.

Bolar Ferry Road,
MANGALORE.

SECOND ASSISTANT SECRETARY TO GOVERNMENT
DEVELOPMENT DEPARTMENT
21 MAY 1953

Ref No. 39.

18th May 1953.

65439

To

The Secretary,
Development Deptt.
Govt. of Madras, MADRAS.

Sir,

Sub: Failure of conciliation-refusal to pay gratuity reference to Tribunal urged.

The Manager of M/s Sujirkar's Tile Works Ltd., Karbala Road, Mangalore had retrenched two workers viz. K.Rama Naik, Canteen worker and Mrs.Thungabka with long years of service. The Union sought the intervention of the Labour Officer, Kozhikode. The enquiry was fixed on 15-5-53(Letter from L.O.dated 20.4.53. Ref.....)

The Management refused to pay gratuity or any kind of retrenchment benefits. Hence the Conciliation failed. The Labour Officer, told the Union representatives that we will shortly hear from the Government in the matter.

This question is of grave importance to the workers. Refusal of the Management to pay if allowed will seriously affect nearly 5000 tile workers and the Union had decided to fight out the issue. Further the Management threatens closure of the factory and it may come any day. The Union has therefore decided to launch direct action.

We therefore beg to be informed urgently whether the Govt. will refer the dispute to the Industrial Tribuanl.

We pray that we may be informed at an early date.

2.

Yours faithfully,

B. Narayana

Secretary.

Copy to:
The Commissioner of
Labour
Madras.

0388

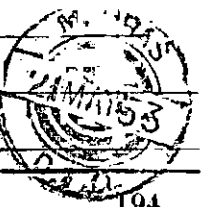
3

INDIA POSTS AND TELEGRAPHS DEPARTMENT

From

To

65598



No. dated the 194

0 KK MANGALORE KNA 21 22

SECRETARY DEVELOPMENT DEPARTMENT FORT MADRAS =

REQUEST REFERENCE TRIBUNAL SUJIRKARS TILE

FACTORY DISPUTE URGENTLY STOP MANAGEMENT

INTENDS CLOSURE = SECRETARY TILE WORKERS UNION

[P.-249/54.]

Lal Chand & Sons, Printers, Calcutta.—No. 538 (4141/D-55)—3-1 47—50,761 Bks.

4 Recd 22/5/53 138 22/5/53

Dev.

Memo No. 6543 9-PD/53-1 dated 22-5-53

Sub:- Labour - Disputes - M/s Sujishan's Tile Works Ltd., Mangalore - Payment of gratuity to the retrenched workers

Ref:- Letter from the Secretary, Mangalore Tile Workers Union, Mangalore, No-39 dated 18-5-53 (with copy to the C.L)
Telegram from the Secretary, Mangalore Tile Workers Union, dated 21-5-53.

Copy of the telegram cited is communicated to the C.L. His attention is invited to the letter cited and he is requested to send urgently a report in the matter.

22/5/53.

21/5 22/5/53

To The C.L (with copy of ptg)

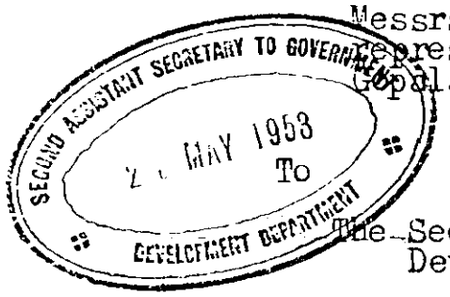
5

66379

Karbala Road,
Mangalore-1,
21 - 5 - 1953.

From

Messrs Sujirkars Tile Works, Ltd.,
represented by the Managing Director,
Gopalakrishna C. Nayak.



To

The Secretary to Government,
Development Department,
Fort St. George, Madras.

Sir,

Ref: Ref.960/53 of the Labour Officer, Puthiyara, Kozhikode, dated 15.5.53 and our letter dated 16.5.53 to the said Officer.

We submit the following for your kind consideration:-

1. That the Labour Officer was wrong in starting the conciliation proceedings on the representation made by the Mangalore Tile Workers' Union, Mangalore, on behalf of Sri K. Rama Naik and Srimathi Tungakka who were at the time not members of the said Union. The said Union had therefore no locus standi to represent the said workers who were ex-workers of the factory. The services of the former had to be terminated on account of the closure of the canteen and the latter had to stop work as she could not work on account of old age. Any subsequent enrolment of the aforesaid persons as members of the aforesaid Union will not validate the proceedings initiated by the Labour Officer.

2. That since the inception of the factory over thirty-five years ago up till now there has been no precedent of the payment of any gratuity to any of its workers, hence the claim by the Union for the payment of gratuity to the ex-employees who have been paid their basic wages, dearness allowance, etc. was illegal and unjust.

3. That law does not provide for the payment of gratuity on an ad hoc basis to individual workers in the absence of a scheme for the purpose; hence the claim of the workers was illegal and ought to have been rejected.

4. That the standing rules framed and approved by government and which are followed in the working of the factory do not provide for the payment of any gratuity. Such being the case the claim for the payment of the same cannot be supported and is therefore also liable to be rejected.

5. That the present financial position of the company is not conducive to the payment of any gratuity not supported by any scheme.

6. That the company is not now liable to pay even the one month's salary as an ex-gratia payment as the workers refused to accept the said offer.

7. That the conciliation proceedings held by the Labour Officer are perfunctory. Detailed proceedings would have convinced him that the claim for gratuity was illegal.

8. That the illegal claim for gratuity by the Union on behalf of two persons who were not its members and not accepted by the factory cannot be termed as an industrial dispute and does not therefore require any adjudication under the Industrial Disputes Act.

9. It is a matter of great surprise that the 2 ex-workers who do not claim reinstatement in the factory

be treated as employees of the factory and formulate a cause of action to create an industrial dispute. The moment that they have severed connection of the factory and there being no claim from them for illegal termination of services any claim from them for gratuity could come under civil liability alone and never will be under the provisions of the Industrial Disputes Act. It is apprehended that the Union wants to create a precedent of payment of gratuity to these two ex-workers so that the remaining workers of the factory numbering about 140 may also secure such privileges.

10. Prays therefore that the above contentions may be accepted and the matter may be dropped as it is not an industrial dispute liable to be adjudicated under the Industrial Disputes Act.

Yours faithfully,

Gopalkrishna A. Nayak

Managing Director.

Copy to:

1. The Labour Officer, Puthiyara, Kozhikode.
2. The Commissioner of Labour, Madras.

8

Revise 26/5/53

27/5/53 155/951

Dev Dept

Memo No. 65439-PI/53-2 dated 27.5.53

Labour — Disputes — M/s Sujirkar's Tile Works Ltd., Mangalore — Payment of gratuity to the retrenched workers.

Ref:— Memo No. 65439-PI/53-1 dated 22.5.53
Petition from M/s Sujirkar's Tile Works Ltd., Mangalore, dated 21.5.53.

The attention of the C.L. is invited to the petition cited and he is requested to offer his remarks thereon along with his reply to the memo cited

26/5/53
26.5.53

To The C.L
29.5

Ref:- 960/53.

Office of the Labour Officer,
Puthiyara, Kozhikode, dated 15-5-'53.

68485

From
Sri. D. K. Purushothaman, B.A.,
Labour Officer, Kozhikode.

To
The Secretary to Government,
Development Department,
Fort St. George, Madras.

Thro'
The Commissioner of Labour
P.B. No. 429, Madras.

OFFICE OF THE COMMISSIONER OF LABOUR MADRAS
2 MAY 1953
SECOND ASSISTANT SECRETARY TO GOVERNMENT
28 MAY 1953
DEVELOPMENT DEPARTMENT

24157

Sir,

Sub:- Labour- Disputes- Dispute between the workers and the management of Sujirkar Tile Works Ltd., Karbala Road, Mangalore- in respect of payment of gratuity to the discharged workers- Report submitted.

Ref:- Letters dated 27-2-'53 and 6-3-'53 from the Mangalore Tile Workers' Union (copies enclosed)

In respect of the above dispute I held conciliation proceedings at Mangalore on 15-5-'53 but my efforts at conciliation proved abortive.

2. The Union did not contest the validity of the discharge of the two workers by name Sri. K. Raman Naik and Sreemathy Thungakka by the management of Sujirkar Tile Works, Ltd., Mangalore but claimed only gratuity and other benefits which the workers are normally entitled to at the time of discharge or retrenchment.

3. The management contends that both the workers were discharged on reasonable grounds and they are not legally bound to pay any gratuity or any compensation to these two workers except 14 days Notice pay which they are willing to pay. However the management is prepared to give these two workers one month's salary as exgratia payment which may not be taken as a

(P.T.O)

10

precedent.

4 The Union leaders are not prepared to accept this offer and they plead that one month's salary is too small an amount for workers who have put in 5 and 15 years of service.

LABOUR OFFICER.

Enclosure:- 1. 12112

Copy submitted to the Commissioner of Labour, Madras.

Copy to the Managing Director, Sujirkar Tile Works Ltd., Mangalore -1.

Copy to the Secretary, Mangalore Tile Workers' Union, Bolar Ferry Road, Mangalore.

Copy to the District Magistrate, South Kanara, Mangalore.

Copy to the District Superintendent of Police, South Kanara, Mangalore.

KPS/17-5
Endt.A4.24148/53

Office of the Commissioner of Labour,
Post Box No.429, Chepauk, Madras 5.
Dated 27-5-1953.

X Submitted to Government. The issue mentioned in the Labour Officer's report may be referred to the Industrial Tribunal for adjudication.

for Commissioner of Labour.

To

The Secretary to Government,
Development Department,
Fort St. George,
Madras.

PM I/27-5-

Copy of the letter dated 27-2-'53 from the Secretary, Mangalore Tile Workers' Union, Bolar Ferry Road, Mangalore to the Labour Officer, Kozhikode.

Sir,

Sub:- Dismissal of Mrs. Thungakka at the Sujirkar's Tile Works, Kudroli, Mangalore.

24158

The Manager of Messrs Sujirkar's Tile Works has dismissed one worker Mrs. Thungakka on 11-2-'53 without notice or assigning any reasons.

The above said worker was working since 15 years in the Factory. The dismissal is illegal and unjust. I request you to take proper action in the matter.

S/d...
Secretary.

/True copy/

Copy of the letter dated 6-3-'53 from the Secretary, Mangalore Tile Workers' Union, Bolar Ferry Road, Mangalore to the Labour Officer, Kozhikode.

Sir,

Sub:- Retrenchment of canteen worker- K. Rama Naik at Sujirkars' Tile Factory- reinstatement requested.

(P.T.O)

12

With effect from 1-2-1953 Sujirkars Tile factory management has closed their factory canteen. Since then the management refused employment to one canteen worker K. Rama Naik without notice.

Before closing the factory canteen, Manager promised the workerm that he will be given some other work. The worker faithfully waited for Manager's order. But the manager failed to keep up his promise. His service in the factory [illegible] 5 years, and his salary was 60/- per month.

I therefore request you to intervene in the dispute and that the worker may be reinstated with full compensation for loss of pay during the period of unemployment.

S/d...
Secretary.

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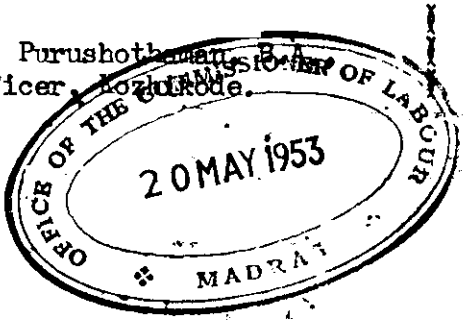
ue copy/

13

CONFIDENTIAL:
Ref:- 960/53

Office of the Labour Officer,
Puthiyara, Kozhikode, dated 16-5-'53.

From
Sri. D. K. Purushothaman, B.A.,
Labour Officer, Kozhikode.



To
The Secretary to Government,
Development Department,
Fort St. George, Madras.

Thro'
The Commissioner of Labour,
P.B. No. 429, Madras.

Sir,

Sub:- Labour- Disputes- Dispute between the workers and the management of Sujirkar Tile Works Ltd., Karbala Road, Mangalore- in respect of payment of gratuity to the discharged workers- Report submitted.

Ref:- Letters dated 27-2-'53 and 6-3-'53 from the Mangalore Tile Workers' Union.

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1 The contention of the management that the workers are not entitled to any compensation or gratuity for loss of service is unint-elligible and will not sustain any longer in these days. The company is not having any Provident Fund Scheme or any other Benefit fund for the workers.

2 I have pointed out to the management several decisions of the Appellate Tribunals and Tribunals in respect of payment of gratuity in such cases

(P.T.O)

of discharge etc. but they are not ~~amicable~~ amenable to reason. I am therefore constrained to recommend the following issues to be referred to the Industrial Tribunal for adjudication.

1) Gratuity to K. Raman Naik and Mrs. Thungakk...

The Union which represents these workers is a registered one and represents the majority of workers in this factory.

LABOUR OFFICER.

Copy submitted to the Commissioner of Labour, Madras.

KPS/17-5

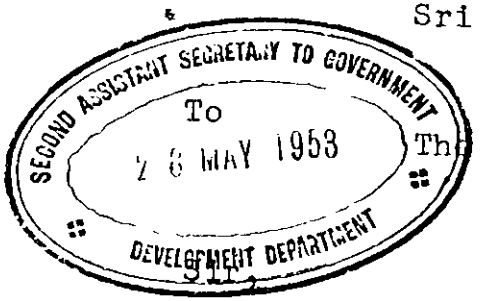
15

A4.24148/53

Office of the Commissioner of Labour,
Post Box No.429, Chepauk, Madras 5.
Dated 27-5-1953.

From

Sri C.G. Reddi, I.A.S.,
Commissioner of Labour, Madras. 63481



To

The Secretary to Government,
Development Department,
Fort St. George, Madras.

Sub: Labour - Disputes - Messrs. Sujirkar Tile Works Ltd., Mangalore - Payment of gratuity to the retrenched workers.

Ref: Government Memorandum Development Department No.65439/P I/53-1 dated 22-5-53.

...

Please see letter No.960/53 dated 15-5-53 of the Labour Officer, Kozhikode, sent with my endorsement A4.24148/53 dated 27-5-53.

for Commissioner of Labour.

PMM/27-5-

27.5

Revise

13.6.53

Development Department

Labour - Disputes - Dispute between the Workers and the management of ~~the~~ Messrs. SUJIRKAR TILE WORKS LTD., Mangalore Reference to the Industrial Tribunal, Coimbatore, for adjudication - Ordered.

Read:

From the Commissioner of Labour ~~Letter~~ Endt No. A4-24148/53 dated 27-5-53.

ORDER Ms. No. 2763 Development Dated 13-6-53

The following notification will be published in the Fort St. George Gazette:-

NOTIFICATION

Whereas an Industrial dispute has arisen between the workers and the management of ~~the~~ Messrs. SUJIRKAR TILE WORKS LTD., Mangalore, in respect of ~~the~~ payment of gratuity to ~~the~~ discharged workers, K. Raman Naik and Thungakka

And whereas in the opinion of ~~H.E.~~ the Governor of Madras it is necessary to refer the said dispute for adjudication;

Now, therefore in exercise of the powers conferred by Section 10(1)(c) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), ~~H.E.~~ the Governor of Madras hereby directs that the said dispute be referred for adjudication to the Industrial Tribunal, having its place of sitting at Coimbatore

4689 PS 4.6.53

To the Ind. Tribunal, Coimbatore
" C. of L., Madras.
" Collector of South Kanara
" Superintendent, G.P., (for publication)
" Secy. to Govt. of India, Ministry of Labour, New Delhi.
" A.G., Madras.
" Management of ~~the~~ Messrs. Sujirkar Tile Works Ltd., Karbala Road, Mangalore-1.
" Secy., Mangalore Tile Workers Union, Bolar Ferry Road, Mangalore.

Spl. 16.6.53

Dev. Dy

No. 65439. PI/53

Subj:— Labour — Disputes — SUJIRKAR TILE WORKS LTD., Mangalore — Payment of gratuity to the discharged workers.

Ref: (1) Petition and telegram from the Secretary, Mangalore Tile Workers Union, dated 18-5-53.

(2) (Issued as Memo. No. 65439. PI/53-1 dated 22-5-53.)

(3) Petition from the Mg. Director, SUJIRKAR TILE WORKS, dt. 21.5.53.

(4) (Issued as Memo. No. 65439. PI/53-2 dated 27.5.53.)

(5) From the Commr. of Labour, Endt. No. A4. 24148/53 dated 22.5.53 and letter of even no. dt. 27.5.53.

pp 1—3 ✓

h 4 ✓

pp 5—7 ✓

6 ✓

h 8 ✓

9 ✓

The reports of the Labour Officer, Kozhikode, at pp 9—10 and 13—14 cf. may be perused.

2. The management of SUJIRKAR TILE WORKS LTD., Mangalore, discharged the 2 workers, K. Raman Naik and Thungakka, from their service in February last. The Mangalore Tile Workers Union has not challenged the validity of the discharge of the workers but demands the payment of gratuity to which they are normally entitled. The management have offered one month's salary to the workers as exgratia payment and contended that they are not legally bound to pay any gratuity or compensation to the discharged workers.

11—12 ✓

para 2 in p 9 ✓

para 3 in p 9 ✓

2/

C no 65437-P I/53

11/8/53

3. The company is reported to have no Provident Fund or any other scheme for the benefit of the workers. It is an accepted and well established fact that the discharged workers should be adequately compensated for loss of employment. and therefore the contention of the management is untenable. The Labour Officer has pointed out to the management diverse decisions of the Tribunals wherein they have awarded gratuity to the discharged workers but the management are however inclined ~~not~~ to stand ~~down~~ on, ~~from~~ their contention. para 1 in p. 13 of / para 2 in pp 13-14 of

4. The Labour Officer and the Commr. of Labour have recommended the issue of ~~payment of~~ gratuity for adjudication. Their recommendation may be accepted. A draft order is submitted for approval. 3 in p 14 of and X on p. 10 of

4653 dt. 4-6-53

6/6/53 S

(I & L)

There is apparently no system of provident fund or gratuity in this factories. However the case can be referred to adjudication

SECRETARY TO GOVERNMENT 18 JUN 1953 DEVELOPMENT DEPARTMENT

6/6

(I & L) Refer to adjudication

13/6/53

(Issued as G.O.Ms.No. 2763 Dev. dt. 13-6-53)